

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/608, 013 06/30/00 LASHER

C 103864-1200R

024395 QM32/0619
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WASHINGTON DC 20004

EXAMINER

ART UNIT	PAPER NUMBER
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3721
DATE MAILED:

06/19/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/608,013	LASHER ET AL.	
	Examiner	Art Unit	
	Eugene Kim	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on ____ .

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-134 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-4, 6-16, 30, 31, 36-44, 49-59, 65-76, 81-115 and 121-134 is/are rejected.

7) Claim(s) 5, 17-29, 32-35, 45-48, 60-64, 77-80 and 116-120 is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are objected to by the Examiner.

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) Notice of References Cited (PTO-892) 18) Interview Summary (PTO-413) Paper No(s). _____
16) Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) Notice of Informal Patent Application (PTO-152)
17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 20) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-4, 6-16, 30-31, 36-44, 49-59, 65-76, 81-115, 121-134 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldberg (#4,672,553) in view of Lasher et al (#5,660,305). Goldberg teaches the apparatus and method of having an order assembling apparatus to fill an order wherein a label is machine readable with a sorting conveyor to order assembly locations to the order codes. Goldberg teaches that any package may be delivered to any order assembly location. The location depends on recognition of what that item is as represented by its characterization. This apparatus has the capability of production shipping invoices . This whole system can accommodate a wide range of package shapes, proportions and weights (col 8 lines 63+). Goldberg teaches the concept of order registering the items and has order selecting means for selecting respective orders to compare each registered item with a stored item characterization to allocate items to selected orders. This is controlling plural selective delivery means (claim 1). Goldberg discloses that a package has the same characterization as the item or items (col 1 lines 65+) inferring that the package may have a plurality of items. Goldberg does not specifically disclose the items and

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transport means as claimed. Lasher et al teaches the concept of counting pills that are going to be filled in prescription bottles. Lasher et al also teach the concept of using a control computer which controls the dispensing of system and that controls a plurality of carriers. The pill bottles are placed in the carriers to transport the bottles and loading station reads a bar code on each prescription bottle and the row identification code from a radio tag to fill the bottles according to the data to the computer 13. the radio tags are marketed by Texas Instruments, Inc. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Goldberg with transporting and counting means as taught by Lasher et al to provide for a more synchronized and expedient operation. Regarding the placement of literature, Goldberg discloses that items may be packaged and the actual item to be packaged is a matter of design choice tailored to the user's preference. Regarding the two different sized bottles, as discussed *supra*, Goldberg discloses that the system accommodates different sized packages, etc..

2. Claims 5, 17-29, 32-35, 45-48, 60-64, 77-80, 116-120 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Horton-Steidler et al teach the concept of distributing information and warning labels to a prescription vial. Little patentable weight is given to the location of the informational literature unless there is some criticality or unexpected result from the particular location. See *in re Japikse*, 86 USPQ 70 (CCPA 1950).

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene Kim whose telephone number is (703)308-1886. The examiner can normally be reached on Tuesday-Friday 7:30 a.m - 6:00 p.m.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.



Eugene Kim
June 14, 2001